

working with the parties to improve their communications, clarify or interpret data, identify key issues to be discussed, design an effective negotiation process, generate settlement options, or help to identify or formulate areas of agreement. Additional information on alternative dispute resolution and mediation resources is available at the following address on the Internet: <http://www.adrr.com>

(5) *Arbitration*. Non-binding arbitration is a process in which a dispute is jointly submitted by the Government and a contractor to an impartial and neutral person or panel who provides a written, non-binding opinion used as a guide for negotiations toward a settlement. Although the Administrative Dispute Resolution Act of 1990 (Pub. L. 101-552) allows agencies to use binding arbitration, the law provides that the agency head may vacate any arbitration award within 30 days after it is served on all parties. For this reason, non-binding arbitration is preferable. Additional information on alternative dispute resolution and mediation resources is available at the following address on the Internet: <http://www.adrr.com>

(6) *Partnering*. Partnering involves an agreement in principle to share the risks involved in completing a project, and to establish and promote a partnership environment. Partnering itself is not a contractual agreement and it does not create any legally enforceable rights, but instead partnering seeks to create a new cooperative attitude in completing Government contracts. The three basic steps in partnering are:

(i) Establish the new relationship through personal contact among the principals for the Government and the contractor before the work begins;

(ii) Prepare a joint statement of goals establishing common objectives in specific detail for reaching the goals; and,

(iii) Identify specific dispute prevention processes designed to head off problems, evaluate performance, and promote cooperation. Additional information on alternative dispute resolution and mediation resources is available at the following address on the Internet: <http://www.adrr.com>

(d) *ADR procedures*. The ADR method shall be selected voluntarily by both the Government and the contractor. Both parties shall agree on the procedures to be followed, including the agenda and amount of time allowed for each party to present its case. The parties may choose not to have a written transcript or hearing on the record, as this might inhibit settlement. Also, the decision rendered, if any, should not be considered to establish any precedent for future litigation unless the parties agree otherwise. In cases where the parties agree to pay jointly for a third-party neutral advisor, it is recommended that the parties and the advisor agree on a fair and reasonable price. The Government would then issue a simplified acquisition (if the dollar amount does not exceed the simplified acquisition limitation) for 50% of the agreed price, and the advisor would submit separate invoices (each for 50% of the price) to the Government and the contractor.

[59 FR 66764, Dec. 28, 1994, as amended at 64 FR 43628, Aug. 11, 1999]

### **633.270 Disputes and appeals under DOS contracts subject to the Contract Disputes Act of 1978.**

#### **633.270-1 Scope of section.**

This section concerns disputes relating to DOS contracts and the transfer of certain appellate and review functions from the Department of State to the General Services Board of Contract Appeals.

[53 FR 26173, July 11, 1988, as amended at 64 FR 43628, Aug. 11, 1999]

#### **633.270-2 Designation.**

The General Services Board of Contract Appeals (GSBCA) is the authorized representative of the Secretary of State and the Procurement Executive for the purposes of hearing and resolving disputes relating to DOS contracts subject to the Contract Disputes Act of 1978. The GSBCA shall hear and determine appeals by contractors from contracting officers' final decisions on disputed issues relating to DOS contracts